



31 DEC 2007

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In re Application of :  
BISCHOFF *et al* :  
U.S. Application No.: 10/529,155 :  
PCT No.: PCT/GB04/00555 :  
Int. Filing Date: 13 February 2004 :  
Priority Date: 13 February 2003 :  
Docket No.: 3827.131 :  
For: SENSOR DEVICE AND METHOD FOR :  
DETECTING AN EXTERNAL IMPACT :  
LOAD ON A VEHICLE :

**DECISION**

This decision is in response to the "Petition to Withdraw Holding of Abandonment Under 37 CFR § 1.181" filed on 26 October 2007. No fee is required.

**BACKGROUND**

On 06 January 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. A two-month time period for response was set with extensions of time available pursuant to 37 CFR 1.136(a).

On 08 May 2006, applicants purportedly filed via facsimile a reply to the Form PCT/DO/EO/905 which was accompanied by, *inter alia*, an executed declaration and authorization to charge a two-month extension fee to Deposit Account No. 50-0951.

On 26 October 2007, applicants filed the subject petition which was accompanied by, *inter alia*, copies of the documents purportedly filed via facsimile on 08 May 2006 and a copy of the facsimile report confirming transmission.

On 21 November 2007, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and all 35 U.S.C. 371 requirements of 26 October 2005. A filing receipt indicating a "Filing or 371(c) Date" of "05/17/2005" was also mailed the same day.

### DISCUSSION

Applicants claim that a response to the Form PCT/DO/EO/905 containing an executed declaration was filed via facsimile on 08 May 2006. However, these papers were not located in the file. Applicants have filed the subject petition.

37 CFR 1.8 *Certificate of mailing or transmission*, states in part:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

In the subject petition, applicants have provided a copy of the documents purportedly filed 08 May 2006. Applicants included a "MEMORY TRANSMISSION REPORT" indicating that the facsimile consisting of 11 pages was successfully received in the USPTO on 08 May 2006 at 16:30. The statements in the petition are sufficient to satisfy item (3) of 37 CFR 1.8(b).

A review of the evidence shows that the USPTO received a facsimile on 08 May 2006. The cover page of the facsimile was titled "Response to Notification of Missing Requirements . . . ." and lists the proper U.S. application number, title and applicant. This evidence meets the requirements of 37 CFR 1.8(b).

### CONCLUSION

Applicants' petition under 37 CFR 1.8(b) is GRANTED.

The declaration originally filed 08 May 2006 is in compliance with 37 CFR 1.497(a) and (b). The two-month extension fee has been charged as authorized.

The Form PCT/DO/EO/903 and Filing Receipt mailed 21 November 2007 contain erroneous data and are both hereby **VACATED**.

This application is being forwarded to the Office of Patent Application Processing for processing including mailing a corrected Form PCT/DO/EO/903 and Filing Receipt indicating that the completion of all 35 U.S.C. 371 requirements and 35 U.S.C. 371(c) date of 08 May 2006, instead of 26 October 2007.



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